

## ANOTHER REPRISAL DEFENSE SCORES FOR PATRICK IN GERDON CASE

New Lease of Life with Adjournment of Hearing for New Trial.

### JEROME TO ASK FOR IT

Convicted Slayer of W. M. Rice May Be Brought Here and Placed on Witness Stand.

### BROTHER-IN-LAW NOT HERE

His Affidavit Ruled Out of Court, but Those of Texas Recently Found Are Admitted.

Another lease of life has been given to Albert T. Patrick by reason of the motion for a new trial which was heard by Recorder Goff this week. He will not be taken to the death chair in Sing Sing in the seven days beginning two weeks from Monday, the time set by Governor Higgins when he granted the last reprieve of sixty days.

It would be no new trial, he granted it, is not likely that Patrick will be put to death for several months. In adjourning the hearing until April 3 District Attorney Jerome and Recorder Goff yesterday assured W. M. K. Olcott, Patrick's lawyer, that they would ask Governor Higgins to grant another reprieve, and there is little doubt their request will be granted, for his fight for a new trial is not ended.

Patrick's lawyer, Jerome, yesterday indicated that Patrick himself will appear in court before his doom is sealed. He had asked Mr. Olcott, before the hearing was resumed, he would ascertain whether Patrick would waive his privilege and permit Frederick B. House, his first lawyer, to testify to a conversation he had with Patrick and Charles F. Jones, the Recorder had said he would accept such a waiver from no one but Patrick, and Mr. Jerome argued that the Recorder had the duty to accept it.

Whether he insisted this conversation should remain a secret because of professional privilege, or because of the fact that it would be a confession, is not known. As Mr. Olcott gave no indication that he heard Mr. Jerome turned to him and said: "What do you say?"

"I decline to say anything," was Mr. Olcott's reply. Then, to the Recorder, he said: "I cannot see why I should do anything in this connection. I do not know if I could get my client's affidavit admitted hereafter."

It is not a question of getting in new affidavits, but of the District Attorney's right to continue the interrupted examination of Patrick. The matter rested.

### Milliken's Affidavit Gone.

John T. Milliken, a brother-in-law of Patrick, who has paid for the getting of witnesses in Texas who swore that Jones admitted he had perjured himself in Patrick's trial, was so busy in St. Louis, Mo., that he could not come to this city and be examined as to his affidavit. The Recorder granted Mr. Milliken's motion for a continuance of his affidavit be stricken from the motion papers.

In spite of the District Attorney's objection, however, the Recorder admitted the affidavits of the two Texas witnesses discovered by Mr. Olcott after he learned the character of his first batch of witnesses. The new witnesses are H. N. Keel, a milkman, of Cove, Texas, and Dr. Solomon Williams, of the same place; Edwin McKnight, a court stenographer, of Houston, and John R. Blackburn, formerly Chief of Police of that city.

Mr. Olcott admitted that Dr. Williams and Mr. Keel had refused to come to this city and submit themselves to Mr. Jerome's cross-examination. The witnesses were in court and the lawyer wanted them questioned, as he said he feared he could not induce them to make another journey to this city in April. They were not examined.

On admitting the affidavits Recorder Goff said it was with the stipulation that the District Attorney should have sufficient time to look up other important witnesses, and he ordered them to appear here when the hearing is resumed. If they failed to appear their affidavits will be excluded.

"I want to know," said Mr. Jerome, "if only these five affidavits and no others will be offered in April?"

"I shall not even consider any others," declared the Recorder.

### YOUNG FIELDING JOINS THE NAVY

Boy Inventor Who "Cut In" on Wireless Messages Is Given a Good Berth.

[SPECIAL DESPATCH TO THE HERALD.] NEWPORT, R. I., Friday.—Charles F. Fielding, a messenger boy whose home made wireless telegraph apparatus so interfered with the workings of the big government plant at the torpedo station that he attracted the attention of Commander Albert Gleaves, U. S. N., who sent drawings of his apparatus to the navy, has been accepted for the Brooklyn Navy Yard to-night to enlist in the service as a third class electrician and to take a course at the navy wireless telegraph school at the Brooklyn Navy Yard.

Fielding was getting \$14 a month as a messenger boy, but after to-morrow he will be drawing \$16 a month and his board. One night two weeks ago the torpedo station was trying to get an important message from a distance when Fielding sent out a message from his penny machine which broke up the message and broke up the despatch on its way to the torpedo station. It was found that Fielding was doing remarkably well with an old automobile coil, a cut off electric light lamp, a little acid and an old Morse sending key.

### BOMB MYSTERY EXPLAINED.

Harry Orchard's Confession in Idaho Clears Up Puzzling Case of Explosion in San Francisco.

SAN FRANCISCO, Cal., Friday.—A San Francisco mystery is explained in the confession made by Harry Orchard, at Boise, Idaho, in 1904, Frederick W. Bradley, superintendent of the Bunker Hill and Sullivan mines, in Idaho, was living here. One morning when Bradley opened his front door to a terrific explosion occurred. He was hurled into the street so severely hurt that for a time it was feared he would die. A gas grill had been leaking in his house and the theory advanced at the time was that the explosion was due to the accumulation of gas which became ignited by the match with which Bradley was lighting a cigar. Orchard, however, in his confession, said Bradley was the victim of a bomb outrage.

Will the two great parties in the English House of Commons break into "groups"? Sir Charles Dilke thinks it probable. See to-morrow's SUNDAY HERALD.

Testimony That Gerdon Exhibited a Revolver and Threatened to Kill.

### MORTON MAKES DENIALS

Policeman Contradicts Stories That He Was on Friendly Terms with Defendant.

### GIRL'S SISTER A WITNESS

Asserts That Victim of Shooting Himself Made Appointment Which Resulted in His Death.

Strong points for the defense were scored yesterday in the trial of Bertha Claiche, charged before Judge Davis, in the Criminal Branch of the Supreme Court, with the murder of Emil Gerdon on July 8 last. Important testimony produced by the prosecution was flatly contradicted, and two witnesses declared that Gerdon had not only threatened to kill them, but had exhibited a revolver which he said he meant to use for the purpose.

Cross-examination failed to disturb these statements, and at one stage of the proceedings Assistant District Attorney Ely lost his temper to such a degree that upon motion of opposing counsel he was sternly rebuked by the Court.

With entering readiness, Policeman Harry Morton, who is accused of having lured Gerdon to the place where he was killed, declared that he had never had the slightest degree of personal intimacy with her, and that he had arranged the meeting which resulted in Gerdon's death solely for the purpose of arresting him because he had beaten the girl and threatened her life. His testimony in all its essentials was in direct contradiction to that given by the other witnesses declared that Gerdon, while acknowledging that he had frequently visited Bertha Claiche, he said that it was merely in the performance of his police duty and that some other person was invariably present.

In the course of his examination, Abraham Levy, of counsel for the defense, asked him if the defendant had not paid money before the shooting to Policemen Muller, Brucek and Lennon, and whether he did not take the girl to the police station regularly from women of the Tenderloin district, but upon objection from Mr. Ely both questions were ruled out.

Mr. Levy then declared that he would attack the credibility of the girl's testimony on the ground that they had a motive for testifying falsely, and he put questions to the witness concerning the relationship between her and Gerdon, and the Court would not allow the answers.

**Gerdon Made Threats.** With the opening of the morning session Morton continued his story about the circumstances of the shooting. He said he was trying to handcuff Gerdon when the latter made a movement with his right hand toward his pocket at the same time turned and said to Bertha Claiche, "If you have me pinched I will kill you when I get out."

About a second later the shooting rang out. He denied that he had had any conversation with the girl after she had been taken to a drug store that he had promised to obtain witnesses for her and have her released in a few days, to all of which Martineau and Billafer had testified.

In the cross-examination Mr. Ely asked Morton whether he had done anything to induce Gerdon to come to the corner where he was killed, and the answer was, "Yes, I told the defendant to try and make arrangements for Gerdon to be out on Saturday night and I would then arrest him."

"After Mr. Ely said to the witness, 'Where is your gun?' he said, 'I will keep it as long as you've got it,' which drew a protest from Mr. Levy and the remark from the judge that the intervention was most improper.

"Why were you so interested in this woman?" asked the witness. "I was not," he replied. "Because I thought the man had attacked her and I considered him a very dangerous man."

Asked the shooting and the positions in the street occupied by the girl and the three policemen, Mr. Ely became confused at the nature of Morton's answers, and addressed him in such tones that Mr. Levy arose and made an objection, saying the witness was "abusive, insulting and improper."

Judge Davis agreed with him and spoke sharply to him, saying he had no need to acquiesce, and resumed: "Contradicts Fellow Policeman."

"Did you say to Billafer and Martineau, 'We have to get this man out of town in this case, because no jury will ever convict her for killing him?'"

"Did you ever tell Policeman Brucek to leave these women alone, or something to that effect?"

"Did you ever embrace or fondle this defendant?"

"No occasion."

Mr. Levy then asked: "Morton, I want you to look at this jury and tell them whether you were ever the admirer of this defendant?"

Morton turned, looked at the jury and said, in low, measured tones, with a pause: "No, I was not."

"Did you ever procure witnesses for the defendant?"

"No."

## SISTER OF BERTHA CLAICHE AND ANOTHER WITNESS FOR DEFENCE



Irma Deon

Edward Xenendocius

## Husband and Wife Dead Together

Mr. and Mrs. John Schlenker Commit Suicide in Their Home, in North Bergen.

### POISON FOUND NEAR BODIES

No Reason Known Why Deed Should Have Been Done, as They Were Happy and Prosperous.

For no known reason John Schlenker, a prosperous harness maker of North Bergen, and his wife, Mary, shared a bottle of poison yesterday afternoon and died clasped in each other's arms. They had lived happily together for years, had no cares and were both of sunny disposition. Neither their relatives nor friends can as-

sign the slightest theory in explanation of the act.

Schlenker was fifty years old and his wife forty-six. They lived in rooms in the rear of the harness shop, in Bergenline avenue. Entering the shop to buy some harness about five o'clock yesterday afternoon, Herman Rudy was unable to obtain any response to his calls. Finally he passed around the counter and into the living room where the lock of a cabinet,

side by side in bed lay Schlenker and his wife. He was already dead and she was breathing her last as Rudy entered. On the floor beside the bed lay a bottle containing one or two drops of a colored mixture, evidently poison. The rooms were in good order and thorough search failed to reveal anything in the nature of a message accounting for the double suicide.

Two married daughters of the couple, one living in Guttenberg and one in Union Hill, were summoned, but neither could offer an explanation. They agreed that the married life of their parents had always been happy. An undertaker took charge of the bodies, and what remains of the contents of the bottle will be analyzed by a chemist.

## DOUGES & ROS, MRS. POLLON HAS SWIMS TO LIBERTY SCORED REPEATED

Pretty Little Melodrama in Escape of Russian Boy Who Went Home to See His Mother.

All Other Diners in a Broadway Hotel.

### FORCED TO BE A SOLDIER DRIVES HER FROM THE ROOM

In Snowstorm Deserts Lines, Plunges Into Ice River and Finally Gets Back to Dear Old America.

Among the 273 steerage passengers on the Hamburg-American liner Pennsylvania, arriving yesterday, was Nathan Spizel, an American citizen, who said he had been impressed into the Russian army while on a visit to his mother last summer. He did not succeed in making his escape until December, when he dropped out of line, made his way back to his mother's home and got away from Russia by bringing a soldier and swimming a small river to Austrian territory.

Spizel, an athletic man of twenty-three, wore the dress of a priest when he arrived here. He said he worked in a hat factory in Newark for eight years and became naturalized in 1904. He decided last July that he would go back to his native town of Wollinsky, on the Russian frontier, and he reached Sixth avenue and Twenty-eighth street, and calling them names.

On complaint of the Police, a policeman took Ross to the West Thirtieth street station. Acting Inspector Hodgins was standing outside the door when Ross and the woman filed in. The prisoner, evidently acquainted with Hodgins, walked straight up to him and asked if word of his arrest could be sent to Deputy Commissioner Mack. In the same breath he muttered something which Mrs. Pollon overheard, and immediately she grew indignant.

When the desk sergeant asked her on what grounds she wished to make a complaint, she replied: "Why, this man said something to the inspector or captain, or whatever he is (indicating Ross), which is enough to warrant his arrest."

She then told of the circumstances which led to the arrest of Ross, both women alluded to the girl's mother, who was in the habit of following her. She declared he was employed by a lawyer to follow her. Mrs. Pollon said she had known Ross for two years, and he had been in the Market Police Court this morning, when Mrs. Pollon and her sister will appear against him.

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### KANSAS RAILROADS GIVE UP RATE CHANGE

Fear of Hostile Legislation Causes Them to Abandon Fifty Per Cent Increase.

### TYPOTHETAE STOPS "BIG SIX"

Judge Blanchard Issues Order Restraining Printers' Union from Coercion and Intimidation.

Judge Blanchard, in the Supreme Court, granted an injunction yesterday restraining officers and members of Typographical Union No. 6 from interfering with non-union printers employed by the Typothetae. Judge Blanchard's order enjoins officers and members of "Big Six" from inducing or coercing by any species of intimidation, threats, force or fraud any employee of the Typothetae or any of its members to quit the employment of the Typothetae. It is returnable on March 1.

## ELDERLY WOMAN SURPRISES THIEF

Miss Eliza M. Ewen Finds Burglar in Her Home and Gives Alarm, but He Eludes Servants.

### OTHER HOUSES ARE ENTERED

Clothes, Money, Jewels and Silver Reported Stolen from Neighboring Residents of the Bronx.

Discovering a burglar in her home in Riverdale avenue, the Bronx, at 23rd street, last evening, Miss Eliza M. Ewen screamed and alarmed her servants. They chased the man through shrubbery and lost him. He obtained no booty.

Miss Ewen an elderly woman, is a daughter of General Ewen, who was prominent in the civil war. General Ewen spent many of his later years with her, travelling all over the world, collecting rare and valuable objects. Many of these are kept in cabinets in her big house on a Bronx hill. George W. Perkins has a summer home near her place, but has escaped visits from burglars. Other residents of the neighborhood, however, have been robbed recently.

When Miss Ewen was at dinner she heard an unusual noise in the front part of the house where she lives, with a half dozen servants. She went to a long room, from which French windows give access to a wide porch, she saw a man, with a soft hat, pulling over his face and coat collar turned up, fingering the lock of a cabinet, in which are some of her rarest treasures.

She gave a cry of alarm, and the burglar dashed through a window which he had forced open to enter the house. Close behind him were the coachman and other servants. The large lawn was dotted with shrubbery and hedges of boxwood, and these enabled their fugitive to elude his pursuers.

Robert Sage, an oculist of the New York Central road, who lives in Corlear place, an elderly man, who lives in a small house of winter clothing and \$4.97 on Wednesday night. George Voltz, who has a hotel in Macomb street, lost \$85, some cordials and various articles. William Hecce, of 1,335 Washington avenue, yesterday reported a theft of his gold watch, containing a picture of a loved one, and a diamond ring, valued at \$1,000, and a quantity of silver when at a theatre Wednesday night with his wife.

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## CLASH ON OPENING OF BELMONT STREET

Another Hearing Before Commissioners in Regard to Bronx Condemnation Case.

Marked by constant clashes and a running fire of sarcasm between counsel and witnesses, there was another fruitless hearing yesterday relative to the opening of Belmont street from the Concourse to Clay avenue in the Bronx, before the Commissioners, that the present plan has announced that amendment is to be the order of the day.

Some Senators are disposed to attach particular significance to the statement attributed to the President that all the lawyers in the country are engaged in the case. General Moody, disagree with him on the important features of rate legislation, while the majority of the committee are in the President's official household, is as certain as Senator Foraker that the proposed method of rate regulation is unconstitutional.

Clement C. Smith, a real estate dealer, who on Thursday as a witness had refused to proceed in the hearing because of his objection to Harold Swain's "badgering tactics," as he termed them, failed to appear before the commission yesterday afternoon. William G. McCrea, counsel for former Police Captain James K. Price, at an earlier hearing, was the first and only witness called. "Tactics" again forced an adjournment until Monday afternoon, when the owners will take the witness stand once more.

McCrea asked and answered his own questions in an effort to demonstrate his knowledge as an expert of real estate in the locality in question. Mr. Swain, representing, he asserts, a portion of the property owners whose holdings had been condemned, contested Mr. McCrea's every offered bit of testimony. Francis W. Pollock, chairman of the commission, sustained Mr. Swain in his objections almost invariably.

## BARS MRS. CARTER'S CHECKS.

Judge Speer Refuses to Admit Them in the Greene-Gaynor Case.

SAVANNAH, Ga., Friday.—In the Greene and Gaynor case to-day Judge Speer declined to admit into the testimony any of the private checks of Mrs. Oberlin M. Carter, saying that while they might have some bearing upon the government's case, he purpose so far as possible to avoid the publicity which would be consequent upon their introduction into evidence. Captain Greene's account with the Knickerbocker Trust Company was admitted in evidence, the government contending that it would be demonstrated that a large part of the funds was procured as a result of the conspiracy.

## SENATORS FEEL PRESIDENT'S BILL CANNOT MAKE

By Decisive Votes Committee Refuses to Report Philippine Tariff Measure.

### BLOW AT MR. ROOSEVELT

Action Regarded as Retaliation for His Attitude on the Rate Regulation Question.

### MR. LODGE'S PLEA IN VAIN

Prediction Made by Mr. Aldrich That the Senate Will Indorse the Committee's Action.

HERALD BUREAU, No. 734 FIFTH AVENUE, N. Y., WASHINGTON, D. C., Friday.—"Knocked out, trampled upon and thrown into a corner" is the picture drawn by a republican Senator of the treatment accorded one of the administration's pet measures—the Philippine Tariff bill—by the Senate Committee on the Philippines to-day.

This is the bill which President Roosevelt has strongly advocated in several messages to Congress, and to the support of which Secretary of War Taft has devoted the major part of his time at this session of Congress.

The belief is strong in administration circles that back of this action by the Philippines Committee is a sinister purpose of republican leaders of the Senate to either strike a blow at the President for his efforts to run roughshod over them in the matter of rate legislation or to hold his Philippines child as a hostage while they force from him a review of some of his measures.

Defeat of the Philippines bill was decisive, overwhelming. Not content with refusing to report the bill favorably, the committee refused by formal vote to report it adversely. Despite the appeals of Chairman Lodge, a majority determined the bill should remain in committee and not be reported to the Senate in any shape, TWO ADVERSE VOTES.

There were two record votes, both adverse to the administration. Senator Lodge moved to favorably report the bill. This received the support of only five senators—Messrs. Lodge, Beveridge and Long, republicans, and McCrea and Carmack, democrats. The votes registered against the motion were by Messrs. Hale, Burrows, Dick, Nixon and Bradstreet, republican, and Culberson, Dubois and Stone, democrats.

Mr. McCrea then moved that the bill be adversely reported, in order that the committee might be given a chance to consider it. Mr. Bradstreet, in support of the motion, and this was carried by a vote of 7 to 6, Mr. Nixon voting with the minority.

Chairman Lodge protested against the unusual action, contending that no good purpose could be accomplished in preventing the Senate from reviewing the action of the committee, but his appeal was availing.

Mr. McCrea tried to obtain a report on his substitute bill providing for free trade with the islands, but he was supported by only Messrs. Culberson, Carmack and Stone.

Coming upon the heels of the clash between President Roosevelt and republican leaders, who refused to support the motion, the committee's action is construed as a direct slap at the President. Republican leaders, who refused to support the motion, the committee's action is construed as a direct slap at the President.

Senator Aldrich is quoted as declaring that the Senate will go on record against the Philippine tariff bill as emphatically as it can. He said that he expected the motion will be made to discharge Senator Lodge's committee from further consideration of the bill to get it before the Senate.

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Senator Morgan Unable to Get Any Information from Canal Company's Counsel.

### LATTER FLOUTS QUERIES

Investigating Committee to Consider the Question of Compelling Witness to Answer.

### FOOD CONTRACT TAKEN UP

J. E. Markel Explains His Connection with the Abrogated Arrangement for Feeding Employees.

HERALD BUREAU, No. 734 FIFTH AVENUE, N. Y., WASHINGTON, D. C., Friday.—Baffled in his efforts to induce William Nelson Cromwell to give the details of his activities and the source of his knowledge with relation to the civil war in Colombia in 1900, Senator Morgan will bring before the Senate Canal Investigating Committee to-morrow the broad question of the scope of the present inquiry and the rights of the committee to force Mr. Cromwell to reply to questions regarding his relationship to the whole canal enterprise.

J. E. Markel was questioned to-day concerning the contract awarded to him for feeding the canal employees on the Isthmus, the negotiations which led up to it, and the circumstances under which it was abrogated at an expense of more than \$10,000 to the Panama Railroad Company.

Much of the examination of Mr. Cromwell to-day consisted of a repetition of the efforts of Senator Morgan to make the witness answer questions. Mr. Morgan first took up a letter written by Mr. Cromwell to Secretary Hay in 1900, in which the Panama Canal Company was seeking an extension from Colombia of its concessions on the Isthmus. There were references in this letter to extraordinary political conditions in Bogotá. The trend of Senator Morgan's questions was, apparently, to connect Mr. Cromwell with the internal disturbances of Colombia, with particular reference to the civil war which was the forerunner of the revolution creating the Republic of Panama.

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